

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

MARIA DALBOTTEN,

Plaintiff,

vs.

C.R. BARD, INC. and BARD
PERIPHERAL VASCULAR, INC.,

Defendants.

CV 20-34-BLG-SPW

ORDER

The parties have submitted a number of deposition excerpts in advance of trial. This order sets forth the Court's ruling on a portion of these objections in those excerpts. Additional orders ruling on the remaining objections will follow.

A. John Craig Deposition – May 11, 2021

1. 13:04-16:08 – sustained as to “market leader” – redact 14:24-14:25 up to “we were very confident . . .”
2. 47:03-47:18 – overruled
3. 63:04-64:04 – sustained, relevancy
4. 64:10:65:03 – the objection stated by Plaintiff was ruled on previously see 3
5. 65:07-67:05 – sustained as to 66:08-67:09, Rule 602
6. 67:09 – sustained, Rule 602

7. 68:01-72:15 – sustained as to 68:20-68:21 – “workhorse” – non-responsive; overruled as to 71:08
8. 72:18-73:11 – sustained, relevance 73:08-73:11
9. 75:08-75:18 – overruled except sustained as to 75:16-75:18 – leading
10. 75:21-79:01 – overruled
11. 91:15-93:11 – sustained as to 91:15-91:21, compound question makes the answer very confusing; sustained as to 93:05-93:09, non-responsive
12. 113:18-118:01 – sustained as to 117:12-118:01, relevancy
13. 118:20-119:08 – overruled
14. 119:10-119:23 – overruled
15. 119:25-120:21 – sustained for the reasons stated in the objection
16. 120:24-121:02 – sustained for reasons stated in the objection
17. 121:14-122:04 – sustained, for reasons stated in the objection, except overruled as to 122:02-04
18. 122:06-126:01 – overruled
19. 126:04-126:06 – overruled
20. 126:09-126:15 – overruled
21. 126:19-126:25 – sustained, beyond the scope of witness’s care of Plaintiff

22. 127:02-127:15 – sustained, beyond the scope of witness’s care of Plaintiff; As to 127:02-127:11 up to “assuming” overruled for remainder
23. 127:17-127:18 – overruled, within the considerations of the treating physician
24. 127:20 – overruled
25. 127:22-127:23 – sustained – what potentially could have happened, but didn’t, isn’t relevant in this context; 127:23-128:06, cumulative, sustained; 128:07-128:20, sustained, beyond the scope of this witness’s care of Plaintiff; 128:21-128:23, sustained, foundation, beyond the scope of witness’s care of Plaintiff
26. 128:25-129:10 – sustained for the reasons stated in the objection
27. 130:09-130:15 – sustained, just counsel’s question and questions are not evidence
28. 130:17-131:04 – overruled, relevant factual evidence rather than expert opinion under Rule 702
29. 131:06-131:16 – overruled, relevant factual evidence rather than expert opinion under Rule 702
30. 131:18-131:25 – overruled, relevant factual evidence rather than expert opinion under Rule 702

31. 132:02-132:09 – overruled, relevant factual evidence rather than expert opinion under Rule 702

32. 132:11-132:19 – overruled, relevant factual evidence rather than expert opinion under Rule 702

33. 132:21-132:25 – sustained, calls for hearsay

34. 133:02-133:09 – sustained, Rule 602, witness can't know what Bard may or may not have disclosed to other physicians

35. 133:11-133:15 – sustained, Rule 602, witness can't know what Bard may or may not have disclosed to other physicians

36. 138:20-140:08 – overruled

37. 141:17-141:25 – sustained, cumulative

38. 143:14-143:20 sustained, cumulative

B. Scott O. Trerotola, M.D. Deposition – January 20, 2017

1. 19:07-19:14 – overruled

2. 19:21-19:22 – overruled

3. 20:06-20:14 – overruled

4. 22:24-23:06 – sustained, relevancy – how is what this doctor does relevant to Plaintiff's claims?


5. 31:17-31:22 – sustained, relevancy – how is what this doctor does relevant to Plaintiff's claims?

6. 31:23-31:24 – sustained, relevancy – how is what this doctor does relevant to Plaintiff's claims?
7. 38:02-38:21 – sustained for reasons stated in the objection, relevancy
8. 41:12-41:16 – sustained, relevancy
9. 42:14-42:18 – sustained, relevancy
10. 51:14-51:21 – sustained, non-responsive, Recovery filter
11. 52:12-52:20 – sustained, relevancy
12. 54:06-54:12 – sustained, relevancy
13. 70:15-70:23 – overruled
14. 71:15-71:17 – overruled
15. 77:11-77:23 – overruled
16. 78:08-78:20 – overruled
17. 80:02-80:10 – overruled
18. 85:01-85:03 – sustained, relevancy
19. 85:11-85:19 – overruled
20. 86:09-86:20 – overruled
21. 92:01-92:12 – overruled
22. 92:17-93:03 – overruled
23. 93:08-93:11 – overruled
24. 94:23-95:07 – overruled

- 25. 129:17-129:19 – sustained – hearsay – offered for the truth
- 26. 129:21-129:22 – sustained – hearsay – offered for the truth
- 27. 135:16-135:22 – sustained, witness doesn't know the answer and the question is not evidence
- 28. 147:14-147:20 – overruled
- 29. 155:18-155:23 – overruled
- 30. 177:05-177:23 – overruled
- 31. 178:20-179:03 – overruled
- 32. 196:16-197:02 – sustained, relevancy
- 33. 198:21 – sustained, relevancy
- 34. 199:07-199:13 – sustained, relevancy
- 35. 200:18-201:02 – sustained, relevancy

The clerk is directed to notify counsel of the entry of this Order.

DATED this 24th day of February, 2023.


SUSAN P. WATTERS
United States District Judge